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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/664,897	09/22/2003	Yukio Hayashi	041465-5199	7378

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DRINKER BIDDLE & REATH (DC)
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SUITE 1100
WASHINGTON, DC 20005-1209

EXAMINER

TRAN, PHUOC

ART UNIT	PAPER NUMBER
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2624

MAIL DATE	DELIVERY MODE
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06/15/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/664,897

Applicant(s)

HAYASHI, YUKIO

Examiner

Phuoc Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-10 is/are rejected.
- 7) ☒ Claim(s) 6 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

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1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 9, 10 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 9, 10 define a **program** embodying functional descriptive material. However, claims 9, 10 do not define a **computer-readable medium or memory** and is thus non-statutory for that reason (i.e., "When functional descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized" – Guidelines Annex IV). The examiner suggests amending the claim to embody the program on "**computer-readable medium**" or **equivalent** in order to make the claim statutory. Any amendment to the claim should be commensurate with its corresponding disclosure.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 9 recites the limitation "the programs" in line 2. There is insufficient antecedent basis for this limitation in the claim. It should be changed to "the program".

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5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-5, 7-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Talluri et al (6,304,607).

As to claim 1, Talluri et al disclose a data reading method of reading variable length-coded data, the method comprising: a first code word reading step of sequentially reading a series of code words partitioned by a plurality of resynchronization markers (col. 2, line 55 - col. 3, line 21; col. 3, lines 53-67); and a resynchronization marker detecting step of detecting a next resynchronization marker before a reading position in the first code word reading step reaches the next resynchronization marker (col. 3, line 53 - col. 4, line 10).

As to claim 2, Talluri et al disclose a second code word reading step of sequentially reading the series of code words based on the next resynchronization marker detected in the resynchronization marker detecting step ((col. 3, line 53 - col. 4, line 10).

As to claim 3, Talluri et al disclose that the data is configured to be read in both forward and reverse directions (col. 4, line 1-32), the method further comprises a third code word reading step of reading the series of code words in an opposite direction to a reading direction in the first code word reading step (col. 4, line 1-32), and in the third code word reading step, the series of code words are sequentially read based on the resynchronization marker detected in the resynchronization marker detecting step (col. 4, line 1-32).

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As to claim 4, Talluri et al disclose an error identifying step of identifying an error in a range of data read in the first code word reading step (col. 4, line 1-32).

As to claim 5, Talluri et al disclose that in the error identifying step, the error identification is made when the code word read in the first code word reading step is undecodable (col. 4, line 1-32).

Claims 7-10 recite limitations that are similar to those of claims 1-2. Therefore, they are rejected for the same reasons.

7. Claim 6 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kim et al (6,990,151) disclose an error concealment method.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phuoc Tran whose telephone number is (571) 272-7399. The examiner can normally be reached on MON-FRI.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


PHUOCTRAN
PRIMARY EXAMINER